UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

ALYSSA WADE,	§	
Plaintiff,	§	
	§	
vs.	§	CIVIL ACTION NO. 4:17-cv-1040
	§	
	§	JURY DEMANDED
MONTGOMERY COUNTY, TEXAS,	§	
Defendant.	§	

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT SITTING IN THE SOUTHERN DISTRICT OF TEXAS:

Plaintiff ALYSSA WADE (hereafter "Plaintiff") respectfully comes before this Honorable Court complaining pursuant to: 42 U.S.C. § 1983 that Defendants herein acted under color of state law and deprived her of her clearly established constitutional rights to receive adequate medical care and to be protected from suicidal actions, as conditions-of-confinement; 42 U.S.C. § 12131 for violations of the Americans with Disabilities Act; and 29 U.S.C. § 794(a) & 29 U.S.C. § 701 (§ 504 of the Rehabilitation Act) for discriminating against individuals with disabilities. In support thereof, Plaintiff specifically alleges the following:

I. SUMMARY

1. Plaintiff entered the care of Montgomery County Sheriff's Office with expressed and obvious knowledge of suicide risks and prescribed medications for a serious medical need and mental disabilities.
2. Montgomery County Sheriff's Office failed to properly monitor, care, administer, and respond to Plaintiff's medical needs.
3. Montgomery County Sheriff's Office placed Plaintiff in solitary confinement and ignored cries, shouts, and pleas for medication and medical care.
4. Montgomery County Sheriff's Office failed to prevent and adequately respond to a suicide attempt by Plaintiff.
5. As a result of the improper and lack of care, Plaintiff broke her jaw.
6. Plaintiff required surgery and follow-up to remove wires put in her mouth during surgery.

7. Montgomery County Sheriff's Office refused to allow Plaintiff to undergo the follow-up removal of the wires until the day before she was released from their care, long after doctors had scheduled and recommended the removal take place.
8. As a condition-of-confinement, Montgomery County Sheriff's Office failed to provide adequate medical care to Plaintiff and failed to protect Plaintiff from suicidal actions.
9. Through this mistreatment, Montgomery County Sheriff's Office violated the Americans with Disabilities Act.
10. Through this mistreatment, Montgomery County Sheriff's Office violated § 504 of the Rehabilitation Act.

II. NATURE OF THE ACTION

11. This suit arises under the Constitution of the United States (particularly the Fifth, Eighth, and Fourteenth Amendments to the Bill of Rights), 42 U.S.C. § 1983, 42 U.S.C. § 12131, 29 U.S.C. § 794(a) & 29 U.S.C. § 701 (§ 504 of the Rehabilitation Act).

III. DEMAND FOR JURY TRIAL

12. Plaintiff respectfully demands a trial by jury.

IV. PARTIES

13. Plaintiff Alyssa Wade is and was at all time relevant hereto a resident of Montgomery County, Texas.
14. Defendant Montgomery County, is being sued and may be served through County Judge Craig Doyal at 501 N. Thompson, Ste. #401, Conroe, Texas 77301.

V. JURISDICTION AND VENUE

15. This Court has jurisdiction to hear the merits of Plaintiff's claims under 28 U.S.C. §§ 1331 and 1343(a) (3) and (4) because Plaintiff's suit arises under 42 U.S.C. § 1983, 2 U.S.C. § 12131, 29 U.S.C. § 794(a) & 29 U.S.C. § 701 (§ 504 of the Rehabilitation Act).
16. Venue is proper under 28 U.S.C. § 1391(b) because all or a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in the Southern District of Texas, Houston Division.
17. All conditions precedent have been performed or have occurred.

VI. SPECIFIC FACTS

18. Before the events giving rise to this cause occurred, Plaintiff had been diagnosed with bipolar disorder, major depression, severe anxiety, and borderline personality disorder by a psychiatrist.
19. Plaintiff did and does suffer from mental disabilities.
20. In early April, 2015, Plaintiff was taken into custody for a probation violation and stayed confined under the care of Montgomery County Sheriff's Office at the Montgomery County Jail.
21. Upon entering the care of Montgomery County Sheriff's Office, Plaintiff informed her caretakers that she was disabled and required special medical attention and specific medications prescribed to her.
22. Upon entering the care of Montgomery County Sheriff's Office, Plaintiff's boyfriend informed her caretakers that she was disabled and required special medical attention and specific medications prescribed to her.
23. A Montgomery County probation officer was aware of the medications Plaintiff required.
24. Plaintiff even signed forms allowing Montgomery County personnel to speak with her doctor and identify her particular prescribed medications.
25. Plaintiff's boyfriend gave the specific medications to personnel at the Montgomery County Jail, asking that they be properly administered to her while under the care of the Montgomery County Sheriff's Office.
26. Plaintiff informed Montgomery County personnel that she was suicidal upon entry into the Montgomery County Jail.
27. Plaintiff's boyfriend informed Montgomery County personnel that she was suicidal upon entry into the Montgomery County Jail.
28. County personnel employed under the Montgomery County Sheriff's Office placed Plaintiff in solitary confinement.
29. Montgomery County Sheriff's Office failed to properly administer her prescribed medication.
30. Montgomery County Sheriff's Office failed to provide proper medical care to Plaintiff.
31. Plaintiff was kept in a single cell with no towel, blanket, bed, or sheets.
32. Plaintiff was forced to sleep standing upright in a small, cold, wet cell that she believed to be merely a shower.

33. Plaintiff was forced to wrap herself with newspaper to keep warm.
34. Plaintiff constantly screamed from her cell that her prescribed medications be administered to her.
35. Despite her pleas, Montgomery County refused to administer her prescribed medications.
36. Montgomery County personnel refused to allow Plaintiff to eat for over a week.
37. Montgomery County Sheriff's Office discriminated Plaintiff because of her disabilities.
38. Montgomery County Sheriff's Office treated Plaintiff differently because of her disabilities.
39. Within two weeks, Plaintiff attempted suicide.
40. Montgomery County Sheriff's Office failed to properly prevent the suicide attempt.
41. Montgomery County Sheriff's Office failed to properly care for Plaintiff during the suicide attempt.
42. During the suicide attempt, Plaintiff sustained injuries, particularly a broken jaw.
43. Plaintiff's broken jaw required two surgeries.
44. Plaintiff received care at Conroe Regional Hospital.
45. Plaintiff was prescribed pain killers to ease the pain from the surgeries.
46. Once back in the care of Montgomery County Sherriff's Officer personnel, Plaintiff was again refused access to and administration of all her medications, including the prescribed pain killers.
47. Plaintiff was forced to suffer in agony of pain from jaw surgery without prescribed pain killers.
48. Montgomery County personnel failed to provide proper medical care after her surgeries.
49. Plaintiff was scheduled to have the hospital remove wires from her jaw from the surgery two weeks after surgery.
50. Montgomery County personnel refused to allow Plaintiff to receive medical care of the removal of the wires in her jaw at the scheduled time for that procedure.
51. Montgomery County personnel delayed the procedure to remove the wires from Plaintiff's jaw until the day before she was released.
52. Plaintiff suffered the agony of having wires in her mouth much longer than necessary and longer than advised by her doctors due to Montgomery County personnel.
53. Plaintiff's medical bills totaled over $100,000.

54. Montgomery County refused liability, and Plaintiff's Medicaid was required to pay the medical bills.

VII. CAUSES OF ACTION

COUNT 1 – 42 U.S.C. § 1983

Montgomery County violated Plaintiff's constitutional right to receive adequate medical care as a condition-of-confinement.

55. The foregoing paragraphs are incorporated herein as if quoted verbatim.

56. Plaintiff had a serious medical need in that:

    a. she was suicidal;
    b. she had been diagnosed with bipolar disorder, major depression, severe anxiety, and borderline personality disorder;
    c. she had specific prescribed and necessary medication to address those diagnosis;
    d. a doctor has decided that her condition needs treatment;
    e. her condition is so obvious that non-doctors would easily recognize the need for medical attention;
    f. denying or delaying her medical care creates a risk of permanent physical injury; and
    g. denying or delaying her medical care causes needless pain.

57. Defendant was deliberately indifferent to Plaintiff's serious medical need in that:

    a. the risk of serious harm to Plaintiff existed;
    b. the risk of serious harm to Plaintiff was obvious;
    c. Defendant knew of the excessive risk to Plaintiff's health;
    d. Defendant disregarded that risk by failing to take reasonable measures to address it;
    e. Montgomery County Sheriff's Office personnel denied many reasonable requests for medical treatment, and such personnel knew that the denial exposed the inmate to a substantial risk of pain and permanent injury;
    f. Montgomery County Sheriff's Office personnel knew that Plaintiff needed medical treatment, and delayed the medical treatment for non-medical reasons;

g. Montgomery County Sheriff's personnel refused to administer prescribed medications after Plaintiff's pleas from her solitary confinement cell for such medications;

h. Montgomery County Sheriff's Office personnel did not adequately prevent or react to Plaintiff's suicide attempt, resulting in her broken jaw;

i. Montgomery County Sheriff's Office personnel waited until the day before Plaintiff's release to allow the wires in her mouth from jaw surgery to be removed, despite that procedure being scheduled weeks after surgery on her broken jaw;

j. Montgomery County Sheriff's Office personnel knew Plaintiff needed medical treatment and imposed arbitrary and burdensome procedures that resulted in delay or denial of the treatment;

k. Montgomery County Sheriff's Office personnel refused to let Plaintiff see a doctor capable of evaluating the need for treatment of Plaintiff's serious medical need;

l. Even after a letter was sent requesting liability and settlement, Montgomery County admitted that when defendant asked for her prescribed medications, Montgomery County Jail personnel placed her into a "solitary" cell, and delayed administering the prescribed medications until Ms. Wade attempted suicide;

m. In Montgomery County's response to that letter, they indicated that it was not apparent what more the jail or the county could have done to safeguard Ms. Wade;

n. Despite a plethora of care options for the mentally disabled, Montgomery County refuses to acknowledge, accept, or enact proper medical care as even a possibility for Ms. Wade and the mentally disabled.

58. Defendant's deliberate indifference caused harm and physical injury to Plaintiff in that:

a. she suffered mentally and physically from the lack of being administered her prescribed and/or other required medications;

b. she broke her jaw;

c. she suffered having wires in her mouth longer than medically necessary or suggested;

d. Even after a letter was sent requesting liability and settlement, Montgomery County admitted that when defendant asked for her prescribed medications, Montgomery

County Jail personnel placed her into a "solitary" cell, and delayed administering the prescribed medications until Ms. Wade attempted suicide, causing her harm;

e. In Montgomery County's response to that letter, they indicated that it was not apparent what more the jail or the county could have done to safeguard Ms. Wade;

f. Despite a plethora of care options for the mentally disabled, Montgomery County refuses to acknowledge, accept, or enact proper medical care as even a possibility for Ms. Wade and the mentally disabled, resulting in injuries such as those incurred by Ms. Wade.

COUNT 2 – 42 U.S.C. § 1983

Montgomery County violated Plaintiff's constitutional right to be protected from suicidal actions as a condition-of-confinement.

59. The foregoing paragraphs are incorporated herein as if quoted verbatim.
60. Plaintiff was particularly vulnerable to suicide, as recognized and stated to jail personnel by herself and others close to Plaintiff.
61. There was a strong likelihood that Plaintiff would attempt suicide, in that she was being refused necessary medical treatment to keep her stable.
62. Defendant was deliberately indifferent to Plaintiff's vulnerability to suicide in that:
    a. Defendant knew there was a strong likelihood that Plaintiff would attempt suicide;
    b. Defendant disregarded that risk of suicide by failing to take reasonable measures to address it;
    c. Defendant actually knew of the risk of suicide through being informed by Plaintiff and her boyfriend;
    d. any reasonable person would have known or should have known of the risk of suicide to Plaintiff;
    e. the risk of a suicide attempt by Plaintiff was obvious, and because of the obviousness, Defendant is inferred to have known of the risk;
    f. Defendant delayed the administration of prescribed medication;
    g. Due to this prolonged delay and deliberate indifference, Ms. Wade did, in fact, attempt suicide;

h. Montgomery County continues to be deliberately indifferent by claiming in a response to Plaintiff's demand letter that the jail or county could not have done anything more to safeguard Ms. Wade;

i. Yet Montgomery County failed to place Ms. Wade in a room larger and properly medically equipped than a shower for the large majority of her day, including time to sleep, failed to administer prescribed medications, failed to adequately watch a high-suicide-risk inmate, failed to treat her symptoms in any way, and actually encouraged suicide by the horrid conditions of confinement;

j. Montgomery County treated Ms. Wade worse than most pounds treat dogs in a kennel, much less provided any kind of *care* to the mentally disabled human being that Ms. Wade thankfully continues to be.

63. Plaintiff would have suffered less harm if Defendant had not been deliberately indifferent.

COUNT 3 – 42 U.S.C. § 12131

Montgomery County violated the Americans with Disabilities Act.

64. The foregoing paragraphs are incorporated herein as if quoted verbatim.

65. Plaintiff:

a. was a person with a mental disability, as defined by the Americans with Disabilities Act at all times relevant hereto;

b. had a mental disability which was open and plainly obvious to all persons who interacted with her (including Defendant Montgomery County and its personnel);

c. exhibited her mental illness to such an extent that it gave Defendant and its personnel actual knowledge of the substantial potential harm that would befall her in the Montgomery County Jail's conditions of confinement;

d. was especially vulnerable to the deleterious effects of Montgomery County Jail's conditions of confinement;

e. was entitled to be free from discrimination because of her disability under the Americans with Disabilities Act, 42 U.S.C. § 12131 et. seq.;

f. was entitled to reasonable accommodations under the Americans with Disabilities Act, 42 U.S.C. § 12131 et. seq.;

g. was discriminated against by Montgomery County and its personnel due to her mental disability in that they did not appropriately accommodate her;

h. was discriminated against by Montgomery County and its personnel due to her mental disability in that they denied her reasonable and appropriate standards of hygiene and medical care due to her disability; and

i. was discriminated against by Montgomery County and its personnel due to her mental disability in that they denied her services and programming that would have accommodated her disability.

66. Congress:

a. enacted the Americans with Disabilities Act upon finding (*inter alia*) that "society has tended to isolate and segregate individuals with disabilities" and that such forms of discrimination continue to be a "serious and pervasive social problem." (42 U.S.C. § 12101(a)(2));

b. explicitly stated that the purpose of the ADA is to provide "a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities" and "clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities." (42 U.S.C. § 12101(b)(l)-(2)); and

c. proclaimed "[N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." (42 U.S.C. § 12132).

67. At all times relevant to this action, Montgomery County was a public entity within the meaning of Title II of the ADA and provided a program, service, or activity to the general public.

68. Defendant Montgomery County:

a. had actual notice that Plaintiff had a mental disability, was vulnerable, and required an accommodation;

b. assigned Plaintiff to solitary confinement because it knew she had medical problems;

c. knew Plaintiff was suffering from severe and abnormal mental, emotional, or physical distress at all times relevant hereto;

d. knew Plaintiff was experiencing substantial mental or physical deterioration of her ability to function independently;

e. knew Plaintiff was suffering a life-threatening mental health crisis;

f. violated the Americans with Disabilities Act by intentionally discriminating against Plaintiff (and refusing and failing to accommodate her) on the basis of her disability;

g. treated Plaintiff in such a manner that evidences the fact that it arbitrarily singled her out for punishment on the basis of her mental disability, which affected her major life activities;

h. has not adopted policies and procedures to ensure its employees reasonably accommodated people with mental disabilities, such as Plaintiff's;

i. has not adopted policies and procedures to ensure its employees treat people with mental disabilities, such as Plaintiff's, in a non-discriminatory manner;

j. was aware Plaintiff's conditions of confinement were inhumane (particularly under the circumstances, given her mental disability);

k. knew Plaintiff's conditions of confinement was harmful to Plaintiff, given her mental disability;

l. witnessed Plaintiff's obvious mental health needs on a daily and routine basis throughout her incarceration;

m. witnessed and were aware of Plaintiff's unconstitutional conditions of confinement on a daily and routine basis throughout her incarceration;

n. was aware Plaintiff's mental condition was deteriorating during her time in Montgomery County Jail's conditions of confinement because its employees interacted with her on a daily and routine basis;

o. failed to take reasonable measures and accommodations to prevent harm being caused to Plaintiff, which was exacerbated by her conditions of confinement;

p. punished Plaintiff for behavior which was clearly and unmistakably symptomatic of her deteriorating mental health;

q. knew Plaintiff faced a substantial risk of serious mental or physical harm if her conditions of confinement did not meet contemporary standards of decency and the requirements of the ADA;

r. acted with deliberate and callous indifference to said risk; and

s. failed and refused to accommodate Plaintiff's disability and denied her the benefits and services of the jail by reason of her disability.

69. Alternatively, Defendant Montgomery County had no idea Plaintiff's mental health care was deteriorating every day she was in its custody because Montgomery County's accommodations with respect to her (and others like her) were so unreasonable that it knew it would/could not:

a. receive such notice before inmates like her experienced an acute mental health event; and

b. reasonable accommodate her medical/mental health needs.

70. Defendant's discriminatory acts and failures and refusals to accommodate Plaintiff include:

a. denial of access to benefits and services (*e.g.,* mental health care) provided to the other inmates;

b. refusing to provide Plaintiff with mental health care; and/or

c. refusing to provide Plaintiff with medical care.

71. Plaintiff required (*inter alia*) the following reasonable accommodations:

a. a system which ensured that Montgomery County received notice of her mental health/medical needs;

b. a system which attempted to discern her mental health needs upon her acceptance into Montgomery County's custody;

c. a system which treated her mental health/medical needs;

d. a system that would transfer her promptly to an alternate facility that could treat her mental health/medical needs;

e. a system that ensured Montgomery County personnel who had actual notice of an detainee's mental health/medical needs conveyed those needs to Montgomery County personnel in a manner that appropriately addressed those needs;

f. proper mental health screening according to current professional standards;

g. doctors and medical professionals who ensured jail personnel were aware of detainees' mental health issues;

h. properly trained jail personnel who followed appropriate policies and procedures for detainees with mental health issues;

i. appropriate protective custody, when emergency situations are needed, such as a suicide attempt;

j. reasonable and appropriate mental health and medical care;

k. reasonable mental health care; and

l. reasonable and appropriate monitoring and observation.

72. Defendant Montgomery County violated Title II of the ADA by:

a. excluding Plaintiff from participation in benefits and services provided to the other inmates by not accommodating her mental disability;

b. denying Plaintiff the benefits and services provided to the other inmates because of her mental disability;

c. subjecting Plaintiff to discrimination in the benefits and services provided to the other inmates because of her mental disability;

d. refusing to have a reasonable system in place which could assess her mental health/medical needs;

e. refusing to provide her with reasonable accommodations for her mental health/medical needs; and

f. having an institutional culture which was so mismanaged and overwhelmed by the mental health needs of the population at the Montgomery County Jail that it could not adequately assess (much less treat and accommodate) Plaintiff's mental health/medical needs.

73. Defendant Montgomery County failed to provide its employees with appropriate training regarding:

a. detainees with mental disabilities;

b. detainees' rights to reasonable accommodations if they had mental disabilities;

c. adequate means of classifying detainees with mental health issues;

d. adequate means of ensuring detainees with mental health issues will receive continued care as received when not in custody;

e. how to acquire information from mental health care providers when detainees like Plaintiff are accepted into Defendant's custody;

f. how to comply with doctors' directives concerning the mental health of detainees;

g. how to recognize the signs that people in its custody like Plaintiff are suffering acute psychiatric episodes;

h. how to handle people in its custody like Plaintiff who are suffering acute psychiatric episodes;

i. Montgomery County's duties to provide reasonable accommodations under federal law; and

j. the manner in which Defendants could provide people with Plaintiff's disabilities with reasonable accommodations.

74. Under the facts herein, Defendant Montgomery County:

a. failed and refused to accommodate Plaintiff's severe disability;

b. denied Plaintiff the benefits and services of a facility designed to accommodate her disability;

c. knew or should have known that persons with Plaintiff's disabilities/condition(s) are especially vulnerable to the conditions of confinement in the Montgomery County Jail;

d. caused Plaintiff to suffer increased mental and physical harm that required treatment that was not provided; and

e. denied Plaintiff access to the treatment necessary to address her mental and physical health needs.

75. Due to the Plaintiff's disability, placement in the Montgomery County Jail's conditions of confinement caused her to suffer additional harm and cruel and unusual punishment.

76. As a proximate and foreseeable result of Defendants' discriminatory acts and omissions, Plaintiff suffered injuries including pain and suffering, emotional distress, and exacerbation of her disability.

77. While in the Montgomery County Jail's conditions of confinement:

a. Plaintiff did not have access to the basic programming and services received by other inmates at the facility (including mental health/medical care);
b. Defendants failed and refused to provide Plaintiff with reasonable medical care;
c. Defendants failed and refused to provide Plaintiff with reasonable mental health care; and
d. Plaintiff's mental health seriously deteriorated.

78. As Plaintiff's condition worsened almost immediately after being placed in Montgomery County Jail's conditions of confinement, her behavior made it obvious she was in need of immediate medical and mental health care.

79. Rather than provide the necessary mental health care, Montgomery County elected to use its conditions of confinement and the threat of solitary confinement and withholding medical attention in an attempt to control Plaintiff's behavior.

80. As a proximate and foreseeable result of Defendants' conduct, Plaintiff suffered injuries including pain and suffering, emotional distress, and exacerbation of her disability/condition.

81. Plaintiff seeks all damages available to her against Montgomery County under the Americans with Disabilities Act.

COUNT 4 – 29 U.S.C. § 794(a)

Montgomery County violated § 504 of the Rehabilitation Act.

82. The foregoing paragraphs are incorporated herein as if quoted verbatim.

83. Section 504 states, "No [person] shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal funding assistance." 29 U.S.C. § 794(a).

84. Defendant Montgomery County is publicly funded and the recipient of federal funding; therefore, it falls within the ambit of Section 504.

85. The Americans with Disabilities Act Amendments Act of 2008 (ADA AA) (P.L. 110-325) emphasizes that the definition of disability should be construed in favor of broad coverage of individuals to the maximum extent permitted by the terms of the ADA.

86. The ADA AA amended Section 504 so as to incorporate the ADA by reference.

87. Defendants' violations, as described above, violate Plaintiff's rights that are secured by Section 504, by discriminating against individuals with disabilities on the basis of disability. 29 U.S.C. § 794.

VIII. DAMAGES

88. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered injuries and damages.

89. Plaintiff therefore seeks compensatory damages (including legal fees, lost future earnings, lost wages, and mental and emotional distress), presumed damages, nominal damages, and punitive damages.

IX. ATTORNEY FEES

90. After prevailing herein, Plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988, 42 U.S.C. § 12205, and 29 U.S.C. § 794a(b).

X. PRAYER

91. For these reasons, Plaintiff asks for judgment against Defendant for the following:

(a) compensatory damages;
(b) presumed damages;
(c) nominal damages;
(d) punitive damages;
(e) reasonable attorney fees;
(f) costs of suit; and
(g) all other relief to which Plaintiff shows himself entitled, both at law and in equity.

Respectfully submitted,

By: */s/ Drew Willey*

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